

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

EXECUTION PETITION NO. 07/SB/2024

*(Arising out of judgment dated 23.07.2021,
passed in Claim petition No. 64/DB/2021)*

Dr. Ashutosh Bikram, aged about 40 years, S/o Sri Ramesh Chandra Singh, presently posted as Assistant Professor (History), Government Degree College, Chudiyala, Haridwar and five others.

.....Petitioners-applicants

vs.

State of Uttarakhand through Chief Secretary, Govt. of Uttarakhand, Civil Secretariat, Dehradun, and others.

.....Respondents.

Present: Sri S.S.Yadav, Advocate, for the petitioners-applicants (online).
Sri V.P.Devrani, A.P.O., for the State.

JUDGMENT

DATED: JANUARY 25, 2024

Justice U.C.Dhyani (Oral)

By means of present execution application, petitioners-applicants seek to enforce order dated 23.07.2021, passed by this Tribunal in Claim Petition No. 64/DB/2021, Dr. Ashutosh Bikram and others.

2. The execution application is supported by the affidavit of Dr. Ashutosh Bikram, one of the petitioners.

3. The decision rendered by this Tribunal on 23.07.2021, is reproduced herein below for convenience.

“By means of present claim petition, the petitioners seek the following reliefs:

“(I) Issue an order or direction to the respondents to decide the representation of the applicants within one month in the light of Clause 10 of UGC Notification dated 18.07.2018 (Annexure No.9 (*Colly*) to the claim petition) which is a subject to UGC Regulation on minimum qualifications for appointment of teachers and other academic staff in universities and colleges and measures for the maintenance of standards in higher education, 2018.

(II) An order or direction which this Hon’ble Tribunal may deem fit and proper under the circumstances of the case, may kindly be passed.

(III) Award the cost of the petition.

2. Briefly put, the facts of the claim petition are as follows:

2.1 Petitioners No. 1 to 6 are presently posted as permanent Assistant Professors in different Govt. Degree Colleges of Uttarakhand.

2.2 Petitioners No. 1 to 6 were selected as Contract Faculty in Higher Education Department, under UGC Regulations, on 19.11.2010, 20.09.2010, 15.10.2010, 05.10.2010, 01.11.2008 and 11.11.2008 respectively. Prior to this, petitioner no. 1 has also worked as Assistant Professor in Awadhoot Bhagwan Ram P.G. College, Anpara, Sonbhadra, U.P. *w.e.f.* 10.12.2008 to 05.12.2010. Services of all the six petitioners were regularized on their respective posts on different dates in the years 2016 and 2017.

2.3 Notification was issued by Respondent No.5 on 18.07.2021. Notification relates to UGC Regulation on minimum qualifications for appointment of teachers and other academic staff in universities and colleges and measures for the maintenance of standards in higher education, 2018. As per Rule 10(f) of the said notification, the previous *ad-hoc* or temporary or contractual service shall be counted for direct recruitment and for promotion.

2.4 Petitioner No.1 moved representations dated 30.10.2018 and 24.02.2020 Annexure: A 7(*Colly*) to Respondent No.3 for counting his previous services rendered as contract faculty for the purpose of counting length of service and further promotions on the post of Associate Professor in the Higher Education Department, which representations have not been decided.

2.5 On 27.02.2020, a letter was sent by the office of Respondent No.5 (Copy: Annexure- A 8) to all the Vice Chancellors of the Universities, whereby a general direction was issued for counting the past services to resolve the delay in promotion.

2.6 All the petitioners moved a joint representation on 23.06.2021 (Copy: Annexure- A 9, *Colly*) to Respondent No.2 for counting the past services of the petitioners, in the light of UGC Regulation, 2018. Such representation of the petitioners is still pending.

2.7 Ld. Counsel for the petitioners stated that respondents are not deciding the representations of the petitioners, which action of the respondents is illegal, arbitrary and violative of fundamental rights of the petitioners under Article 14, 16 and 21 of the Constitution of India.

2.8 Aggrieved with the inaction on the part of the respondents, present claim petition has been filed praying for directions to the respondents to dispose of the pending representations of the petitioners.

3. Ld. A.P.O. opposed the prayer of Ld. Counsel for the petitioners on the ground that, a writ petition being WPSB No. 422/2020, on the same subject and for the same relief, is pending before Hon'ble High Court of Uttarakhand, therefore, prayer of petitioners cannot be accepted. Ld. Counsel for the petitioners denied the objection raised by Ld. A.P.O. He submitted that the writ petition which is under adjudication before Hon'ble High Court, is on different facts and has different cause of action. He, therefore, prayed that Respondent No. 3 may kindly be directed to decide the pending representation of the petitioners dated 23.06.2021 (Annexure: A-9, *Colly*), at an earliest possible, in accordance with law.

4. Considering the facts of the case, this Tribunal is of the view that innocuous prayer made by learned Counsel for the petitioner should be accepted.

5. Without prejudice to rival contentions, claim petition is disposed of, at the admission stage, by directing Respondent No.3, to decide the pending representation dated 23.06.2021 (Annexure: A9, *Colly*) of the petitioners, by a reasoned and speaking order, in accordance with law, at an earliest possible, but not later than ten weeks of presentation of certified copy of this order along with copy of the representation.

6. Needless to say that the decision so taken shall be communicated to the petitioner soon thereafter.

7. No order as to costs."

4. It is the submission of Ld. Counsel for the petitioners that order dated 23.07.2021 has not been complied with by the authority concerned. It is also the submission of Ld. Counsel for the petitioners/ applicants that casual approach on the part of opposite party(s)/respondent(s) should not be tolerated and strict direction should be given to them to ensure compliance of such order.

5. Ld. A.P.O., on seeking instructions from the respondent department, submitted that Hon'ble High Court of Uttarakhand, has passed an order on 17.04.2018 in WPSS No. 154/2017, by which the regularization rules of 2016, under which petitioners' services were regularized, have been quashed. In compliance of said order of Hon'ble Court, Personnel Department notified and issued new weightage policy for such affected persons. Against which, petitioners and other similarly situated persons have filed review petitions, therefore, it is difficult to give the benefit of CAS to the petitioners, as their services are under question and are subject to the decision in such review petitions, pending before the Hon'ble High Court.

6. It may be noted here that the Tribunal had directed Respondent No.3 in its order dated 23.07.2021 to decide the pending representation of the petitioners by a reasoned and speaking order, in accordance with law. It should not be difficult for the said respondent to comply with Tribunal's order. The Tribunal never directed the respondent to decide the representation in a particular manner. It only directed that the representation be decided in accordance with law.

7. Considering the facts of the case, this Tribunal directs the authority concerned to comply with the order dated 23.07.2021, passed by this Tribunal in Claim Petition No. 64/DB/2021, Dr. Ashutosh Bikram and others vs. State & others, if the same has not been complied with so far, without further loss of time, failing which the concerned respondent(s) may be liable to face appropriate action under the relevant law governing the field.

8. Ld. counsel for the petitioners/applicants submitted that such direction can be given by the Single Bench of the Tribunal.

9. Petitioners/ applicants are directed to place a copy of this order before the authority concerned to remind that a duty is cast upon said authority to do something, which has not been done.

10. Execution application is, accordingly, disposed of at the admission stage, with the consent of Ld. Counsel for the parties.

11. Let copies of this order be supplied to Ld. Counsel for the petitioners/applicants and Ld. A.P.O., as per Rules.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY 25, 2024.
DEHRADUN

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